

BEFORE

THE PUBLIC SERVICE COMMISSION OF

SOUTH CAROLINA

DOCKET NO. 2021-153-S - ORDER NO. 2021____

DECEMBER _____, 2021

IN RE: Application of Palmetto Wastewater)	PROPOSED ORDER
Reclamation, Incorporated for an)	
<u>Adjustment of Rates and Charges</u>)	

I. INTRODUCTION AND PROCEDURAL HISTORY

This matter comes before the Public Service Commission of South Carolina (“Commission”) pursuant to S.C. Code Ann. §§ 58-5-10(4), 58-5-210, 58-5-240, and S.C. Code Ann. Regs. 103-512.4.A and 103-503 for approval of the monthly sewer service charges and rate schedule language changes set forth in the application (“Application”) and rate schedules filed by Palmetto Wastewater Reclamation, Inc. (“PWR” or the “Company”).

Consistent with S.C. Code Ann. § 58-5-240(A), PWR filed a letter with the Commission on May 3, 2021, regarding its intent to file the Application and proposed rate schedule seeking an adjustment in the Company’s rates and charges, as well as the terms and conditions of sewer service. The South Carolina Office of Regulatory Staff (“ORS”) filed a Notice of Appearance for Christopher M. Huber and Jenny R. Pittman on May 18, 2021.¹ The Commission Clerk’s Office filed a Proposed Customer Bill Insert Timeline (“Timeline”) on June 1, 2021, which identified the proposed dates for newspaper publication and procedural dates assuming the Application was filed on June 3, 2021. During email correspondence that took place that same day, the Company notified the Commission that the Application would be filed no later than June 16, 2021, and PWR would

¹ ORS, by statute, is automatically a party to the proceeding. S.C. Code Ann. § 58-4-10(B).

propose a revised schedule. ORS and the South Carolina Department of Consumer Affairs (“DCA”) filed comment letters in response to the Timeline on June 3, 2021. The Timeline came before the Commission at the June 9, 2021 business meeting; the matter was carried over and no vote was taken.

The DCA filed a Notice of Appearance for Carrie Grube Lybarker, Roger P. Hall, and Connor J. Parker on June 11, 2021.

The Company, ORS, and the DCA (“the Parties”) collaboratively proposed a schedule (“Joint Schedule”) to the Commission identifying dates for notice and pre-filed testimony on June 11, 2021.

PWR filed its Application for an adjustment of its rates and charges on June 16, 2021. The Application was filed pursuant to S.C. Code Ann. § 58-5-240 and S.C. Code Ann. Regs. 103-512.4.A. In its Application, PWR sought approval of an increase in the monthly sewer service charge to \$43.12 for residential customers and single family equivalents (“SFE”) for commercial customers, an increase to \$32.18 for mobile home customers; rate base treatment; an increase to the tampering charge to an amount not to exceed \$500 for a customer who damages or tampers with utility property; and a proposed a test year beginning January 1, 2020 and ending December 31, 2020.

The Commission issued Directive Order No. 2021-434 dated June 17, 2021, approving a bill insert timeline.

The DCA filed a Petition to Intervene on June 18, 2021, pursuant to its authority under S.C. Code Ann. § 37-6-604 to provide representation of the consumer interest before state and federal regulatory agencies when such agencies undertake to fix rates or prices for consumer

products or service and may intervene as a party to advocate for the interests of consumers before the Commission.²

On June 30, 2021, the Commission issued a Notice of Filing and Public Hearings (“Notice”) which outlined the proposed changes in rates and charges for each customer class, gave notice to customers about the public hearings for customers to provide testimony on the Company’s Application, and informed the public as to the date for the merits hearing in this docket. By letter dated that same day, the Clerk’s Office instructed the Company to (i) publish the Notice of Filing and Public Hearings in newspapers of general circulation by July 16, 2021 and (ii) provide Proof of Publication by September 6, 2021. The Clerk’s Office further instructed PWR to provide the Notice to each affected customer via bill inserts or by electronic mail to those customers who have agreed to receive notices by electronic mail on or before August 16, 2021, and to provide certification of such on or before September 6, 2021. Finally, the Clerk’s Office instructed the Company to provide the Notice to the County Administrator in any county that PWR provides services as well as the City Administrator in any city where the Company provides services, and to provide certification of such on or before September 6, 2021. The Clerk’s Office also issued a letter dated June 30, 2021, with deadlines for pre-filed testimony, as well as the date for notifying the Commission regarding the order of each party’s witnesses to be presented during the hearing, any objections to taking direct and rebuttal or surrebuttal testimony together during the hearing, and if any party to the proceeding wants to use panels of witnesses.

On July 13, 2021, the Company filed with the Clerk’s Office an Affidavit and tearsheet reflecting publication of the Notice of Filing and Public Hearings in a general circulated

² The Commission granted the DCA’s Petition to Intervene on August 31, 2021; *See* Order No. 2021-113-H.

newspaper. Two days later, on July 15, 2021, the Company filed with the Clerk's Office the letters containing the Notice sent to the Lexington County Administrator, Richland County Administrator, Irmo City Administrator, and the Columbia City Manager. By letter dated July 22, 2021, the Company notified the Commission that practical considerations would prohibit the Company from furnishing its affected customers with a copy of the Notice of Filing via bill inserts by the date set by the Commission. The Company, to comply with the Commission's instructions, would provide each affected customer with a copy of the Notice of Filing via U.S. Mail by August 16, 2021. PWR provided the affidavit of April Braswell, the billing manager for the Company who attested that each affected customer was sent the Notice on July 21, 2021, via U.S. Postal Service First Class Mail.

ORS filed a Revised Notice of Appearance of Counsel for Christopher M. Huber and Nicole M. Hair on July 29, 2021.

On September 2, 2021, PWR filed the prefiled direct testimony of Witnesses Craig Sorensen, Donald H. Burkett, and Mujeeb Hafeez and the prefiled direct testimony, appendix, and exhibit of Witness Paul R. Moul.³ The Company moved for protective treatment regarding certain confidential information contained within Mr. Hafeez's testimony,⁴ and filed a redacted version of his testimony with the Commission.

On September 7, 2021, ORS filed a Motion to Compel Production of Documents and Things ("Motion"). Specifically, ORS requested the Commission compel production of copies of the minutes of SouthWest Water Company's ("SWWC") Board of Directors meetings that occurred during calendar year 2019 and all presentations made to SWWC's Board during calendar

³ Mr. Hafeez's prefiled direct testimony included four attachments.

⁴ The Commission granted the Company's request on September 15, 2021. *See* Order No. 2021-626.

year 2019. PWR is a subsidiary of SWWC, which allocates costs for products or shared services provided by SWWC to its affiliates such as PWR. Among the costs allocated are ones associated with SWWC's Board. The Company filed a Return to ORS's Motion on September 17, 2021. ORS filed a Reply in Support of its Motion on September 21, 2021. In Directive Order No. 2021-640, the Commission granted ORS's Motion and ordered the Company to provide ORS with the materials requested within ten (10) days of receipt of the Order.

The DCA filed the prefiled direct testimony and exhibits of Witnesses Aaron Rothschild and Lafayette Morgan, Jr., on September 30, 2021. ORS filed the prefiled direct testimony and exhibits of David J. Garrett, Daniel P. Hunnell, and Christina L. Seale that same day.⁵

On October 14, 2021, the Company filed the prefiled rebuttal testimony of Witnesses Paul R. Moul, Mujeeb Hafeez, Craig Sorenson, and Donald H. Burkett. The Company filed corrected rebuttal testimony of Witness Craig Sorenson on November 9, 2021.

On October 28, 2021, ORS filed the prefiled surrebuttal testimony and exhibits of Witnesses Christina L. Seale and Daniel P. Hunnell, and the surrebuttal testimony of David J. Garrett. The DCA filed the prefiled surrebuttal testimony of Aaron Rothschild and Lafayette Morgan Jr. Witness Morgan's surrebuttal testimony was accompanied by thirteen (13) schedules. The DCA filed corrected surrebuttal testimony for Witness Rothschild on November 10, 2021.

The Commission conducted a public hearing in this matter on Monday, November 8, 2021, beginning at 9:00 a.m., with the Honorable Justin T. Williams presiding.⁶ Two public witnesses came forward to provide comments on the Application; however, one was discovered to be a

⁵ ORS filed a redacted, public version of Witness Garrett's direct testimony and exhibits and a confidential, unredacted version because the testimony contained information PWR had designated confidential.

⁶ The pre-registration sheet for the public hearing was accepted into the record and marked as Hearing Exhibit 1.

customer of an affiliate utility. With no additional witnesses having registered to speak, the Commission suspended the hearing and cancelled the remaining public hearings originally scheduled in this docket.

On November 10, 2021, ORS filed a Partial Stipulation (“Stipulation”) signed by the Parties. The Stipulation is attached hereto as Order Exhibit 1. The Stipulation constituted an agreed compromise of all positions advanced by the Parties with the exception of the authorized return on equity (“ROE”). The Stipulation provided that the Parties agreed to stipulate into the record the prefiled testimony and exhibits of certain witnesses without objection, change, amendment, or cross-examination.⁷ The other terms of the Stipulation are described in further detail below.

The merits hearing began on November 10, 2021, beginning at 10:00 a.m., with the Honorable Justin T. Williams presiding. Due to the ongoing COVID-19 pandemic, certain parties and witnesses appeared remotely.⁸ Charles L.A. Terreni, Esquire, and Scott Elliott, Esquire represented the Company. Nicole M. Hair, Esquire and Christopher M. Huber, Esquire represented ORS. Roger P. Hall, Esquire and Connor J. Parker, Esquire represented the DCA.

At the start of the hearing, the Stipulation was accepted into the record as Hearing Exhibit 2. Those witnesses who were not otherwise excused from appearing at the merits hearing were sworn in and their prefiled testimonies were accepted into the record, including any corrections, accompanying exhibits and appendices, and confidential versions filed under seal.⁹ ORS Witness

⁷ The Parties agreed to stipulate into the record the testimony and exhibits of PWR Witnesses Donald H. Burkett and Mujeeb Hafeez, DCA Witness Lafayette Morgan, Jr., and ORS Witnesses Christina L. Seale. Witnesses Burkett, Hafeez, Morgan, and Seale were excused from presenting their testimony in-person. Verifications were provided by the respective Parties for these witnesses.

⁸ Company Witness Moul testified virtually. DCA Attorneys Roger P. Hall and Connor J. Parker appeared virtually, as did DCA Witness Rothschild. For ORS, Witness Garrett testified virtually. *See* Order No. 2021140-H.

⁹ The Parties stipulated to and the Commission accepted Witnesses Moul, Garrett, and Rothschild as experts on the fair rate of return for a regulated utility, including its cost of debt, return on equity, and capital structure. The Parties

Hunnell was presented for questions from the Commission but was not cross-examined by counsel for the Company or the DCA as agreed to pursuant to the Stipulation. Company Witnesses Sorensen and Moul, DCA Witness Rothschild, and ORS Witness Garrett were presented for cross-examination from the other parties and questioning from the Commission.

II. STATUTORY STANDARDS AND REQUIRED FINDINGS

The Company's current rates now in effect were approved in Commission Order No. 2019-314 issued on May 14, 2019, in Docket No. 2018-82-S. The Company is a public utility, as defined by S.C. Code Ann. § 58-5-10(4), providing sewer service to the public for compensation in certain areas of Richland and Lexington Counties. Application ¶ 2. The Company proposes a test year of January 1, 2020, to December 31, 2020. Application ¶ 5.

The Application, testimony, exhibits, affidavits of publication, and public notices submitted by the Company comply with the procedural requirements of the South Carolina Code of Laws and the Regulations promulgated by this Commission.

South Carolina Code Ann. § 58-5-210 provides, “[t]he Public Service Commission is hereby...vested with power and jurisdiction to supervise and regulate the rates and service of every

also stipulated to and the Commission accepted Witness Garrett as an expert on customer financial protections known as ring fencing. In addition, the Parties stipulated to and the Commission accepted Witness Hunnell as an expert in utility ratemaking and regulatory analysis.

Witness Moul's Appendix A and Exhibit PRM-1 filed with his prefiled direct testimony were marked as Hearing Exhibit 5. Attachments MSH-1 through MSH-4 to Witness Hafeez's prefiled direct testimony were marked as Hearing Exhibit 6. Witness Rothschild's Appendices A and B and Exhibits ALR-1 through ALR-6 filed with his prefiled direct testimony were marked as Hearing Exhibit 7. Hearing Exhibit 9 was Appendix A and Exhibits 1 through 10 filed with Witness Morgan's prefiled direct testimony. Witness Morgan's Surrebuttal Schedules LKM-1 through LKM-13 filed with his prefiled surrebuttal testimony were marked as Hearing Exhibit 10. Witness Seale's Exhibits CLS-1 through CLS-7 filed with her prefiled direct testimony were marked as Hearing Exhibit 11. Witness Seale's Surrebuttal Exhibits CLS-1 through CLS-7 filed with her prefiled surrebuttal testimony were marked as Hearing Exhibit 12. Witness Hunnell's Exhibits DPH-1 through DPH-6 filed with his prefiled direct testimony were marked as Hearing Exhibit 13. Witness Hunnell's Surrebuttal Exhibits DPH-1 through DPH-2 filed with his prefiled surrebuttal testimony were marked as Hearing Exhibit 14. Appendices A and B and Exhibits DJG-1 through DJG-17 filed with Witness Garrett's prefiled direct testimony were marked as Hearing Exhibit 15.

public utility in this State, together with the power, after hearing, to ascertain and fix such just and reasonable standards, classifications, regulations, practices and measurements of service to be furnished, imposed, observed and followed by every public utility in this State and the State hereby asserts its rights to regulate the rates and services of every ‘public utility’ as herein defined.” “[R]ate-making is not an exact science, but a legislative function involving many questions of judgment and discretion.” *Parker v. S.C. Pub. Serv. Comm’n*, 280 S.C. 310, 312, 313 S.E.2d 290, 291 (1984).

The object of using test year figures is to reflect typical conditions. The Company has the benefit of choosing its test year. Where an unusual situation indicates that the test year figures are atypical, the Commission should adjust the test year data. *Parker v. S.C. Pub. Serv. Comm’n*, 280 S.C. 310, 312, 313 S.E.2d 290, 292 (1984). “[A]djustments for known and measurable changes in expenses may be necessary in order that the resulting rates reflect the actual rate base, net operating income, and cost of capital. The adjustments are within the discretion of the Commission and must be known and measurable within a degree of reasonable certainty. Absolute precision, however, is not required.” *Hamm v. S.C. Pub. Serv. Comm’n*, 309 S.C. 282, 291, 422 S.E.2d 110, 115 (1992) (citing *Michaelson v. New England Tel. & Tel. Co.*, 404 A.2d 799 (R.I. 1979)).

“Although the burden of proof of the reasonableness of all costs incurred which enter into a rate increase request rests with the utility, the utility’s expenses are presumed to be reasonable and incurred in good faith. This presumption does not shift the burden of persuasion but shifts the burden of production on to the . . . contesting party to demonstrate a tenable basis for raising the specter of imprudence. . . . The ultimate burden of showing every reasonable effort to minimize . . . costs remains on the utility.” *Utils. Servs. of S.C., Inc. v. S.C. Pub. Serv. Comm’n*, 392 S.C. 96, 109–10, 708 S.E.2d 755, 762–63 (2011) (quoting *Hamm v. S.C. Pub. Serv. Comm’n*, 309 S.C. 282,

286, 422 S.E.2d 110, 112 (1992)). The Commission has the “powers to ‘to supervise and regulate’ rates and service and ‘to fix just and reasonable standards, classifications, regulations, practices, and measurements of service.’” *Id.* at 105, 708 S.E.2d at 760 (quoting S.C. Code Ann. § 58-3-140(A)). “Pursuant to these powers, the PSC is entitled to create incentives for utilities to improve their business practices.” *Id.* “Accordingly, the PSC may determine that some portion of an expense actually incurred by a utility should not be passed on to consumers.” *Id.*

The Commission, as an administrative agency, “is generally not bound by the principle of stare decisis but it cannot act arbitrarily in failing to follow established precedent.” *See* 330 *Concord St. Neighborhood Ass’n v. Campsen*, 309 S.C. 514, 517–18, 424 S.E.2d 538, 539–40 (Ct. App. 1992).

Pursuant to S.C. Code Ann. § 58-3-60, “[t]he commission shall not inspect, audit, or examine public utilities. The inspection, auditing, and examination of public utilities is solely the responsibility of the Office of Regulatory Staff.”

The Commission must consider the evidence presented to it on the formal record. “Because the PSC is both entitled and required to consider the evidence presented to it on the formal record, the PSC is entitled to rely on sworn testimony presented by non-party protestants to overcome the presumption of reasonableness.” *Utils. Servs.*, 392 S.C. at 111, 708 S.E.2d at 763.

The Commission must determine a fair rate of return that the utility should be allowed the opportunity to earn after recovery of the expenses of utility operations. The legal standards for this determination are set forth in *Federal Power Comm’n v. Hope Natural Gas Co.*, 320 U.S. 591, 602-03(1944) (“*Hope*”) and *Bluefield Water Works and Improvement Co. v. Public Service Commission of West Virginia*, 262 U.S. 679, 692-93 (1923) (“*Bluefield*”).

In *Bluefield*, the United States Supreme Court held that:

What annual rate will constitute just compensation depends upon many circumstances and must be determined by the exercise of a fair and enlightened judgment, having regard to all relevant facts. A public utility is entitled to such rates as will permit it to earn a return on the value of the property which it employs for the convenience of the public equal to that generally being made at the same time and in the same general part of the country on investments in other business undertakings which are attended by corresponding risks and uncertainties; but it has no constitutional right to profits such as are realized or anticipated in highly profitable enterprises or speculative ventures. The return should be reasonably sufficient to assure confidence in the financial soundness of the utility and should be adequate, under efficient and economical management, to maintain and support its credit and enable it to raise the money necessary for the proper discharge of its public duties. A rate of return may be reasonable at one time and become too high or too low by changes affecting the opportunities for investment, the money market and business conditions generally.

Bluefield, 262 U.S. at 692-93.

The Commission and South Carolina appellate courts have consistently applied the principles set forth in *Bluefield* and *Hope*. See *Southern Bell Tel. & Tel. Co. v. Pub. Serv. Comm'n of S.C.*, 270 S.C. 590, 244 S.E. 2d 278 (1978). Quoting *Hope*, the South Carolina Supreme Court has stated: “‘under the statutory standard of ‘just and reasonable’ it is the result reached not the method employed which is controlling.... The ratemaking process under the Act, i.e., the fixing of ‘just and reasonable’ rates, involves the balancing of investor and the consumer interests.’” *So. Bell*, 270 S.C. at 596, 244 S.E.2d at 281 (quoting *Hope*, 320 U.S. at 602-03).

This Commission must exercise its dual responsibility of permitting utilities an opportunity to earn a reasonable return on the property it has devoted to serving the public, on the one hand, and protecting customers from rates that are so excessive as to be unjust or unreasonable, on the other, by “(a) Not depriving investors of the opportunity to earn reasonable returns on the funds devoted to such use as that would constitute a taking of private property without just compensation[, and] (b)

Not permitting rates which are excessive.” *So. Bell*, 270 S.C. at 605, 244 S.E. 2d at 286 (Ness, J., concurring and dissenting).

Additionally, the Commission’s determination of a fair rate of return must be documented fully in its findings of fact and based exclusively on reliable, probative, and substantial evidence on the whole record. *Porter v. S.C. Pub. Serv. Comm’n*, 332 S.C. 93, 98, 504 S.E.2d 320, 323 (1998). In making its decision, the Commission cannot make a determination based upon surmise, conjecture or speculation. *See Herndon v. Morgan Mills, Inc.*, 246 S.C. 201, 209, 143 S.E.2d 376, 380 (1965).

The findings of facts and conclusions of the Commission herein reflect these standards and the Commission employed the same upon review of the evidence in the record.

III. REVIEW OF THE EVIDENCE AND EVIDENTIARY CONCLUSIONS

A. Issues Addressed under Stipulation

Issues Addressed

The Partial Stipulation executed by ORS, the Company, and the DCA constituted a compromise resolution of all issues except for authorized ROE. Stipulation ¶ 3. Pursuant to the Stipulation, the Parties agreed to accept and adopt all recommendations, adjustments, and customer protections in the testimony and exhibits of ORS witnesses unless specifically modified by the Stipulation. Stipulation ¶ 4. The recommendations, adjustments, and customer protections in the testimony and exhibits of ORS witnesses accepted and adopted by the Parties include ORS’s recommended adjustment related to the Company’s allocation of corporate overhead and shared costs to PWR discussed in ORS Witness Seale’s Direct Testimony. *Id.* (Tr. pp. 240.7-240.11). The Parties agreed to the correction in ORS Adjustment 3 regarding depreciation expenses described in ORS Witness Seale’s Surrebuttal Testimony (Tr. p. 242.4) and revenue adjustments proposed

by ORS based on the actual number of customers and equivalent residential customers by class as of the end of August 2021. Stipulation ¶ 4. The Company did not offer specific rebuttal testimony in opposition to these adjustments.

The Parties also agreed to the recommendation of ORS and the DCA to amortize rate case expenses over three years. *Id.* (Tr. pp. 233.8, 235.4-235.5, 240.7, 242.2-242.4). The Company had requested two years. *Id.* (Tr. pp. 168.4-168.5). The Parties further agreed the amount of rate case expenses to be amortized over three years is \$160,000.¹⁰ Stipulation ¶ 5.

In addition, the Parties agreed to amend Adjustment 2L to allow PWR recovery of the additional \$14,336 in chemicals expense requested in PWR Witness Burkett's Rebuttal Testimony. Stipulation ¶ 6; (Tr. p. 168.6). ORS had opposed the requested additional chemical expense in Witness Seale's Surrebuttal Testimony. (Tr. p. 242.2).

Customer protections the Parties accepted under the Stipulation include those proposed by ORS Witness Garrett in his Direct Testimony related to the acquisition of Ni South Carolina, LLC (now Ni South Carolina, Inc.), the parent company of PWR, from Ni Pacolet Milliken Utilities, LLC by Southwest Utility System, Inc. ("the Acquisition"). *Id.* (Tr. pp. 268.76-268.83). These customer protections discussed in Witness Garrett's Testimony, also referred to as ring-fencing provisions, include PWR not seeking recovery of any goodwill associated with the Acquisition in future rate proceedings, PWR not seeking recovery of any acquisition or transaction costs associated with the Acquisition in future rate proceedings, PWR not assuming the role of guarantor for any debt of SWWC or its affiliates or subsidiary entities unless that debt is incurred for

¹⁰ The Company provided documentation to ORS demonstrating \$160,000 of allowable rate case expenses had been incurred. Hearing Exhibit 3 was reserved for a late-filed exhibit to be filed under seal by the Company consisting of rate case expense supporting documentation. (Tr. p. 48).

purposes specific to the PWR system and operations, that any debt incurred by PWR is and will only be used for purposes specific to the PWR system, and that PWR will not lend cash or other capital directly to SWWC or any SWWC affiliate or subsidiary entities except for routine and prudent cash management practices. *Id*; (Tr. p. 268.83). The Company did not offer specific rebuttal testimony in opposition to these recommended customer protections.

The Stipulation addressed two of the three components of PWR's cost of capital: capital structure and cost of debt. The Parties did not agree to an authorized ROE in the Stipulation. Under the Stipulation, the Parties agreed to capital structure for PWR that includes 45% debt and 55% equity. Stipulation ¶ 7. In its testimony, the Company recommended adopting its test period capital structure ratio of 40.08% debt and 59.92% equity. (Tr. p. 139.13). ORS Witness Garrett asserted the Company's proposed capital structure was too equity-rich and increased capital costs above a reasonable level. (Tr. p. 268.7). ORS recommended an imputed capital structure consisting of 50% debt and 50% equity, which was equal to the proxy group in this case. (Tr. p. 268.7). The debt ratio of PWR's parent company, SWWC, also influenced ORS's proposed capital structure ratio. (Tr. pp. 268.7, 268.73). DCA Witness Rothschild recommended a capital structure of 49.26% equity and 50.74% debt based on the average common equity ratios of the companies in his proxy group. (Tr. p. 194.34).

Regarding cost of debt, the Parties agreed to a 3.79% under the Stipulation. Stipulation ¶ 8. Company Witness Moul proposed a 3.79% based on the Mergent Bond Record for Baa-rated public utility bonds. (Tr. pp. 139.13-139.14). ORS did not recommend a different cost of debt. (Tr. p. 268.76). DCA Witness Rothschild recommended a 3.20% in his Direct Testimony. (Tr. pp. 194.34-194.35). He updated his recommendation to 3.67% in his Surrebuttal Testimony to reflect

the market yield of Baa rated corporate bonds between January 2021 and August 2021. (Tr. p. 196.15).

Regarding tariff language changes, the Company agreed to amend its Rate Schedule to remove Section 13 – Limitation of Liability and to amend the last paragraph of Section 1 – Monthly Charge to remove certain language as set forth in the Stipulation. Stipulation ¶¶ 10, 11. Additionally, the Parties agreed to PWR's request to amend Section 12 of its Rate Schedule to increase the maximum amount of its tampering charge to \$500. Stipulation ¶ 12. The DCA, through Witness Morgan's testimony, had opposed the increase in the maximum amount of the tampering charge. (Tr. pp. 233.14-233.15).

The Parties agreed to various fallout adjustments to reflect the terms of the Stipulation and the ROE granted by the Commission.

Finally, PWR agreed in the Stipulation that it would not file another general rate case before eighteen (18) months from the date the final order is issued in this proceeding, such that new rates would not be effective prior to twenty-four (24) months from the date the final order is issued.

ORS introduced into the record at the hearing an exhibit with Attachments B, C, and D showing the Operating Experience, Rate Base, and Rate of Return utilizing the terms of the Stipulation and each of the three different ROEs recommended by Witnesses Moul, Garrett, and Rothschild in this proceeding. Hearing Ex. 8. Attachment A to this exhibit provided a summary of the revenue requirement and rates under the three different ROEs and the terms of the Stipulation.

Commission Finding

The Commission, as the finder of fact, has carefully evaluated the evidence submitted in this case related to the issues resolved by the Stipulation. The Commission concludes that it is just and reasonable and a fair balancing of the interests of the Company and its customers to approve

the Stipulation. No party opposes the Stipulation, and all Parties to this proceeding support it as a just and reasonable resolution of all issues within this proceeding except for the authorized ROE.

B. Return on Equity

ORS's Position

ORS retained David J. Garrett to evaluate the cost of capital for PWR, relative to the current rate increase filing. (Tr. p. 268.6). Witness Garrett's opinion regarding capital structure and cost of debt were discussed above in the context of the Stipulation.

Witness Garrett testified that he employed two recognized methods applied to the proxy group of water utilities proposed by Witness Moul to calculate the Company's cost of equity. (Tr. pp. 268.10, 268.26-268.27). Witness Garrett testified that the two methods he used, and his corresponding findings were:

Methodology	Result
Discounted Cash Flow ("DCF")	8.0%
Capital Asset Pricing Model ("CAPM")	6.3%

Based on his DCF and CAPM results, Witness Garrett concluded that PWR's cost of equity is 7.1% within a range of 6.3% to 8.0%. (Tr. p. 268.7). Witness Garrett testified the awarded ROEs for water utilities typically have exceeded the market cost of equity, despite the fact that those utilities are less risky than the average stock market portfolio. (Tr. p. 268.19). Witness Garrett testified the legal standards governing ROE do not mandate that the awarded ROE equate to the result of a particular financial model, but rather that the "end result" be just and reasonable under the circumstances. *See Fed. Power Comm'n v. Hope Natural Gas Co.*, 320 U.S. 591, 602-03 (1944); (Tr. pp. 268.7, 268.11-268.12). He further testified "an awarded ROE that is set too far above a regulated utility's cost of equity runs the risk of being at odds with the standards set forth

in *Hope* and *Bluefield*.” (Tr. pp. 268.11-268.12). He ultimately recommended the Commission award PWR an authorized ROE of 8.9%. *Id.* He based this recommendation on the concept of gradualism to lessen potential rate shock for the Company and its investors. (Tr. pp. 268.12-268.13). While 8.9% is above PWR’s market-based cost of equity, it represents “a gradual yet meaningful move towards market-based cost of equity.” (Tr. p. 268.7). Witness Garrett further described the use of gradualism as follows:

While generally reducing awarded ROEs for utilities would move awarded returns closer to market-based costs, I believe it is advisable to do so gradually. One of the primary reasons PWR’s actual cost of equity is so low is because PWR is a low-risk investment. In general, utility stocks are low-risk investments because movements in their stock prices are not volatile. If the Commission were to make a significant, sudden change in the awarded ROE anticipated by stockholders, it could have the undesirable effect of notably increasing the Company’s risk profile, which could be in contravention to the *Hope* Court’s “end result” doctrine. An awarded ROE of 8.9% represents a good balance between the Supreme Court’s indications that awarded ROEs should be based on cost, while also recognizing that the end result must be just and reasonable under the circumstances. An awarded ROE of 8.9% represents a relatively gradual, yet decisive move toward PWR’s market-based cost of equity, while still providing PWR’s shareholders with the opportunity to earn a return that is more than 100 basis points above PWR’s market-based cost of equity (8.9% vs. 7.1%).

(Tr. pp. 268.12-268.13).

In his surrebuttal testimony, Witness Garrett addressed several issues raised in PWR Witness Moul’s Rebuttal, including the capital structure, growth rate inputs to the DCF model, the CAPM results, and Witness Moul’s leverage adjustment. Witness Garrett also responded to aspects of Company Witness Sorenson’s Rebuttal Testimony discussing ROE. Regarding Witness Moul’s criticisms of the growth rate used in Witness Garrett’s DCF analysis, Mr. Garrett testified that Mr. Moul’s rebuttal testimony is difficult to reconcile because Mr. Garrett conducted his DCF model using Mr. Moul’s growth rate assumptions. (Tr. pp. 272.3-272.4). Witness Garrett’s analysis

demonstrates that when reasonable inputs to the DCF Model are used, the resulting cost of equity is still only 8.0%, even if PWR's proposed growth rate is included. (Tr. p. 272.4).

Regarding CAPM, Witness Garrett refuted Witness Moul's claim that his CAPM results are not credible, stating that Mr. Moul's claim lacks any evidentiary support. (Tr. p. 272.4). Witness Garrett testified that his methods for his CAPM analysis are reasonable and credible and that Witness Moul employs the CAPM incorrectly. (Tr. pp. 272.4-272.9). Among other critiques, Witness Garrett testified that Witness Moul vastly overstated his CAPM results by using forward-looking bond yields rather than recent, and thus known and measurable, bond yields and provided no support for his assertion that CAPM mandates the use of prospective yields. (Tr. p. 272.5). Witness Garrett provided a table with data demonstrating that "using projected instead of historical yields (which are known and measurable) overstates utility costs of equity." (Tr. p. 272.7 and Table 1). Regarding the beta input into CAPM, Witness Garrett relied on betas published by Value Line and testified that, in his experience, the vast majority of ROE witnesses in utility rate proceedings (representing both utilities and customers) take this approach without further adjustment whereas Witness Moul took the "unusual approach of making an upward adjustment to Value Line's published betas, which causes a higher CAPM result." (Tr. p. 272.7).

Regarding the equity risk premium ("ERP") input into the CAPM model, Witness Garrett noted the inconsistency between Witness Moul's criticism of Mr. Garrett's use of the 30-day lookback for his risk-free rate as backward-looking when Mr. Moul relied on data spanning nearly a century. (Tr. p. 272.8). In contrast to Witness Moul's approach, Witness Garrett, in developing a reasonable estimate for the ERP, relied on a survey of thousands of unbiased experts; an estimate published by Duff & Phelps, a respected, international corporate advising firm; and the estimate published by one of the world's leading experts on the ERP. *Id.* The highest ERP from these

sources is 5.6% (notably lower than Witness Moul's 9.0% estimate), which Witness Garrett used in his analysis. *Id.*

Witness Garrett further refuted Witness Moul's claims that Mr. Garrett did not take issue with Mr. Moul's leverage adjustments. As Witness Garrett stated in his surrebuttal, he refuted Witness Moul's "entirely inappropriate" leverage adjustment and recommended that the Commission reject the same. (Tr. pp. 268.46-268.48, 272.9-272.10; Hearing Ex. 15, Ex. DJG-17).

Turning to Witness Sorenson's rebuttal, Mr. Garrett highlighted that his ROE recommendations are often at or near the ROE awarded to the utility by the regulatory body. (Tr. p. 272.10, lines 14-16). With respect to the table in Witness Sorensen's rebuttal showing' ROEs recently awarded to PWR's affiliates, Witness Garrett noted his 8.9% recommendation is much closer to the 9.38% average for the ROEs recently awarded to PWR affiliates than the 10.95% recommendation of Witness Moul.¹¹ (Tr. p. 272.11, lines 1-6).

Witness Garrett also testified that Witness Sorensen provided no evidence to support his statement in his rebuttal testimony that an 8.9% ROE would put PWR at a distinct disadvantage in attracting the capital necessary to operate, maintain, and improve its system. (Tr. p. 272.14). Finally, Witness Garrett addressed the idea that a utility's self-professed good performance should result in a higher ROE; to that point, Witness Garrett acknowledged that while good performance is a factor that the Commission may consider in determining the awarded ROE under South Carolina law, it is neither the only factor nor should it be the primary driver in performing a ROE analysis.¹² (Tr. p. 272.14, line 14-p. 272.15, line 5).

¹¹ The one rate case in Mr. Sorensen's table where an ROE range is provided was excluded in calculating the 9.38% average. (Tr. p. 272.11).

¹² See *In Re Blue Granite Water Company*, 434 S.C. 180, 193 & n.6, 862 S.E.2d 887, 893-94 & n.6 (2021).

PWR's Position

Company Witness Moul recommended a 10.95% ROE for PWR in this proceeding. (Tr. pp. 139.5-139.6). He used four different methods in determining his recommendation: DCF, Risk Premium (“RP”), CAPM, and Comparable Earnings (“CE”). (Tr. p. 139.4) His resulting cost of equity estimates were 10.41% for the DCF, 10.50% for the RP, 12.05% for the CAPM, and 12.80% for the CE. (Tr. p. 139.5). Based on these results, Witness Moul proposed an ROE of 10.95%, which was the rounded downward average of the market-based results of 10.99%. (Tr. pp. 139.5-139.6). Witness Moul testified that if the Commission were to accept the positions put forth by either Witnesses Garrett or Rothschild, investors would not see South Carolina regulation as supportive of utilities. (Tr. p. 141.4, lines 20-22).

In his rebuttal testimony, Witness Moul described a 9.5% ROE recently approved by the Commission for a much larger electrical utility as part of a comprehensive settlement agreement as a benchmark for this case. (Tr. pp. 141.5, 147-48). On redirect examination, Witness Moul agreed that a 9.5% authorized ROE for PWR would be reasonable given the state of the record in this proceeding. (Tr. pp. 161-62).

In his rebuttal, Witness Craig Sorenson testified in disagreement with the positions of ORS and the DCA, alleging their recommended ROEs would neither allow PWR to earn a fair and reasonable return on its investment relative to other regulated utilities nor allow PWR to attract capital (Tr. p. 75.5, lines 9-11). He also testified regarding PWR’s operational, environmental, and customer service record in South Carolina and ROEs recently awarded to affiliates of PWR in this and other jurisdictions. (Tr. pp. 75.4-75.7). He testified that all of PWR’s capital is provided through its parent company, SWWC, and that no provides capital to PWR. (Tr. p. 88). Witness Sorensen was not proffered as an expert on the fair rate of return for a regulated utility, including

its cost of debt, return on equity, and capital structure. He also testified he has never been qualified as a rate of return expert and has never filed testimony evaluating the return on equity or cost of equity of a utility company. (Tr. pp. 77, 96). In response to a question about whether he was aware that the capital market factors that impact the cost of equity for all utilities, including PWR, have changed since PWR's last rate case, Witness Sorensen indicated he could not comment on that because he is not an expert. (Tr. pp. 96-97).

DCA's Position

DCA Witness Rothschild applied the following three models to a proxy group of seven publicly traded water companies ("Water Proxy Group")¹³: Constant Growth DCF; Non-Constant Growth DCF; and CAPM. (Tr. p. 194.37, lines 14-18). Based on his analysis, Witness Rothschild recommended a cost of equity of 7.31% for PWR, within the range of 6.13% to 7.70% indicated by his analysis. (Tr. p. 194.3, line 19). Witness Rothschild testified that although the midpoint of his ROE range was a 6.92% cost of equity, he recommended 7.31% because it is prudent to not be overly abrupt while bringing ROEs in line with the true market-based cost of equity. (Tr. p. 194.5, lines 7-10). Witness Rothschild also testified that, contrary to Witness Moul's and Witness Sorenson's testimonies, the cost of equity should be based on current market data and set by investors' current expectations as indicated by market data at the time of the proceedings. (Tr. p. 196.16, line 15 – p. 196.17, line 5).

Commission Finding

After careful consideration, the Commission finds the testimony and evidence presented by ORS and the DCA on the cost of equity for PWR to be the most compelling. Both witnesses

¹³ (Tr. p. 194.40, lines 7-12).

Garrett and Rothschild presented similar evidence of the cost of equity. The mid-point of ORS Witness Garrett's analysis was 7.1 percent. DCA Witness Rothschild's mid-point was 6.92 percent. The Commission agrees that Company Witness Moul's leverage adjustment and size adjustment used in his DCF and CAPM model should be rejected for the reasons discussed in the testimony of Witnesses Garrett and Rothschild. Garrett Direct pp. 46-47; (Tr. pp. 194.93-194.96, 196.14, 268.46-268.48, 272.9-272.10). Witness Garrett testified that the primary reason Witness Moul's DCF result is unreasonably high is because of his leverage adjustment. (Tr. p. 268.46).

Regarding CAPM, Witness Garrett testified the primary drivers behind the differences in his result and Witness Moul's result are (1) Mr. Moul's ERP is notably higher than those reported by thousands of experts and other objective analysts and scholars around the country; and (2) Mr. Moul adds a size premium that is inappropriate. (Tr. p. 268.59-268.60). The Commission finds Witness Garrett's ERP analysis persuasive and agrees Witness Moul's proposed ERP is unreasonably high. (Tr. pp. 268.51-268.58, 268.60-268.61, 272.8). The Commission also agrees the use of recent, and thus known and measurable, bond yields and betas published by Value Line without an adjustment such as that made by Witness Moul produces a more accurate estimate of the Company's cost of equity. (Tr. p. 272.5-272.7). The Commission further finds that Witness Moul's size adjustment on the basis that PWR is smaller than the proxy group lacks sufficient support, is arbitrary, and should be rejected for the reasons discussed in the testimony of Witnesses Garrett and Rothschild. (Tr. pp. 194.98-194.99, 196.14, 268.61-268.64). Moreover, the South Carolina Supreme Court recently affirmed this Commission's ROE decision in another rate case in which as part of that decision the Commission discarded any prior concern that the smaller size of the utility in that case could affect its level of risk after hearing testimony from two ROE

witnesses that such a concern was unwarranted. *In re Blue Granite Water Co.*, 434 S.C. 180, 191-192, 862 S.E.2d 887, 893 (2021).

In addition, the Commission declines to adopt the results of Witness Moul's Risk Premium and Comparable Earnings models and finds persuasive the testimony and evidence presented by Witnesses Garrett and Rothschild that Mr. Moul's use of these models overstates PWR's cost of equity. (Tr. pp. 194.99-194.102, 268.64-268.68).

The Commission does not find persuasive Witness Sorensen's claim that the Company would neither be able to earn a fair and reasonable return on its investment nor attract capital should the Commission accept the ROE recommendations of Witnesses Garrett or Rothschild. Witness Sorensen provided no evidence to support this assertion. In addition, unlike Witnesses Moul, Rothschild, and Garrett, Mr. Sorensen is not an ROE expert and he has never filed testimony evaluating either the return on equity or cost of equity of a utility company. Further, we acknowledge and find persuasive Witness Garrett's testimony that his recommended ROE is more reasonably in line with the average of recently authorized ROEs for PWR's affiliated utilities, including those provided in Witness Sorensen's Rebuttal, than the 10.95% Witness Moul's recommends.

Turning to the ROE that should be authorized for PWR in this proceeding, the Company requested a 10.95% ROE, ORS recommended an 8.9%, and the DCA recommended a 7.31%. Company Witness Moul also agreed that a 9.5% ROE would be a reasonable outcome. The Commission agrees with Witness Garrett that the legal standards governing ROE do not mandate that the awarded ROE equate to the results of a particular financial model but that the end result be just and reasonable and constitute an appropriate balancing of investor and consumer interests. The Commission finds Witness Garrett's gradualism analysis persuasive and concludes that an

ROE of 8.9% constitutes a just and reasonable result and balancing of the many factors the Commission may consider in setting the authorized ROE PWR should have the opportunity to earn.

IV. FINDINGS OF FACT AND CONCLUSIONS OF LAW

Based upon the discussion as set forth herein, and the record of the instant proceeding, the Commission makes the following Findings of Fact and Conclusions of Law:

1. PWR is a wastewater utility providing sewer service in its assigned service area located in Richland and Lexington Counties. The Commission is vested with authority to regulate rates of every public utility in this state and to ascertain and fix just and reasonable rates for service. S. C. Code Ann. § 58-5-210 *et. seq.* PWR's operations in South Carolina are subject to the jurisdiction of the Commission.
2. PWR is a wholly owned subsidiary of Ni South Carolina, Inc., which is a subsidiary of South Carolina Utility Systems, Inc, which is a subsidiary of Southeast Utility Systems, Inc., which is a subsidiary of SouthWest Water Company.
3. The appropriate Test Year period for this proceeding, selected by PWR, is January 1, 2020 to December 31, 2020. PWR submitted evidence in this case with respect to its revenues and expenses using a Test Year consisting of 12 months ending December 31, 2020.
4. The Commission finds, for the reasons discussed above, that the Stipulation entered into by the Parties and attached to this Order as Exhibit 1 is fair, just, and reasonable for PWR and its customers. Therefore, this Commission adopts the Stipulation in its entirety.
5. The Commission finds that the adjustments and customer protections as discussed in the Stipulation and previously in this Order are just and reasonable and the Commission hereby adopts and approves the same.

6. The Commission finds most compelling and gives the greatest weight to the objective testimony and analysis of Witness Garrett. Therefore, the Commission finds that granting PWR the opportunity to earn an 8.9% ROE is just and reasonable. The Commission also finds that the cost of debt of 3.79% and a capital structure consisting of 45% debt and 55% equity to which the Parties agreed in the Stipulation is just and reasonable. All of these figures are supported by the reliable, probative, and substantial evidence on the whole record and are in the public interest.
7. For the reasons discussed herein, the Commission finds the revenues detailed in Order Exhibit 2, which was Attachment C to Hearing Exhibit 8, to be just and reasonable and based upon credible evidence in the record.

IT IS THEREFORE ORDERED THAT:

1. PWR is authorized the opportunity to earn a ROE of 8.9%.
2. PWR's capital structure is 45% debt and 55% equity.
3. PWR's cost of debt is 3.79%.
4. The Stipulation executed by the Parties is accepted and adopted in its entirety, including the adjustments and rate schedule language changes described therein.
5. As set forth in the Stipulation, the customer protections Witness Garrett proposed are approved. It is, therefore, ordered:
 - PWR will not seek recovery of any goodwill associated with the Acquisition in any future rate proceedings;
 - PWR will not seek to recover any acquisition or transaction costs associated with the Acquisition in any future rate proceedings;
 - PWR will not in any way be the guarantor of any debt for SWWC or any SWWC affiliate or subsidiary entities unless the debt is incurred for purposes specific to the PWR system and operations;

- Any debt incurred by PWR is and will only be used for purposes specific to the PWR system; and
- PWR will not lend cash or any other capital directly to SWWC or any SWWC affiliate or subsidiary entities except for routine and prudent cash management practices.

6. PWR's rates shall be set using the rate base methodology; with a return on rate base of 6.60% based upon a return on equity of 8.9% and a capital structure of 45% debt and 55% equity.

7. Pursuant to S.C. Code Ann. § 58-5-240(H), PWR's operating margin is 14.42% as reflected in Order Exhibit 2.

8. PWR shall file a schedule showing the revenue produced by each and every tariffed rate approved by the Commission and reconcile the revenue produced, by tariffed rate, to the revenue requirement approved in this Order. This schedule must detail the revenues, expenses, and rate base components used to calculate the Commission approved revenue requirement.

9. The revenues detailed in Order Exhibit 2 are fair and reasonable and will allow PWR to continue to provide its customers with safe and reliable wastewater service.

10. The Company is to provide thirty (30) days' advance notice of the increase to customers of its wastewater services prior to the rates and schedules being put into effect for service rendered. The schedules will be deemed filed with the Commission under S.C. Code Ann. § 58-5-240.

11. Revised tariffs shall be filed within ten (10) days of receipt of this Order, consistent with the Commission's Rules and Regulations. The tariffs should be electronically filed in a text searchable PDF format using the Commission's DMS System (<https://dms.psc.sc.gov>). An additional copy should be sent via email to etariff@psc.sc.gov to be included in the Commission's

ETariff System (<http://etariff.psc.sc.gov>). Future revisions should be made using the ETariff System. The tariffs shall be consistent with the findings of this Order and agreements with the other parties to this case. The Company shall provide a reconciliation of each tariff rate change approved as a result of this order to each tariff rate revision filed in the ETariff System. Such reconciliation shall include an explanation of any differences and be submitted separately from the Company's ETariff System filing. The rates, fees, and charges in the revised tariffs shall be consistent with the adjustments as stipulated between the Parties and the 8.9% ROE authorized in this Order.

12. The Company's books and records shall continue to be maintained according to the NARUC Uniform System of Accounts.

13. PWR shall maintain a performance bond for sewer operations in the amount of \$350,000 in compliance with S.C. Code Ann. § 58-5-720.

14. This Order shall remain in full force and effect until further Order of this Commission.

BY ORDER OF THE COMMISSION:

Justin Williams, Chairman

ATTEST:

Florence P. Belser, Vice-Chairman

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2021-153-S

IN RE: Application of Palmetto Wastewater) **PARTIAL**
Reclamation, Incorporated for an Adjustment) **STIPULATION**
of Rates and Charges)

Pursuant to S.C. Code Ann. §1-23-320(F), and all other applicable statutes and regulations, this Partial Stipulation ("Partial Stipulation") is made by and among the South Carolina Office of Regulatory Staff ("ORS"), Palmetto Wastewater Reclamation, Inc. ("PWR" or the "Company"), and the South Carolina Department of Consumer Affairs ("DCA") (collectively referred to as the "Parties" or sometimes individually as "Party").

WHEREAS, the Company prepared and filed on June 16, 2021 an Application for Increase in Rates and Charges (the "Application");

WHEREAS, the above-captioned proceeding has been established by the Commission pursuant to the procedure set forth in S.C. Code Ann. § 58-5-240 *et seq.*, and the Parties to this Partial Stipulation are parties of record in the above-captioned docket;

WHEREAS, ORS is charged by law with the duty to represent the public interest of South Carolina pursuant to S.C. Code Ann. § 58-4-10(B);

WHEREAS, DCA by law may advocate for the interest of consumers in matters before the Commission pursuant to S.C. Code Ann. § 37-6-604(C);

WHEREAS, ORS conducted an examination of the books and records of the Company relative to: the matters raised in the Application; test-period revenues, operating expenses,

depreciation and taxes paid by the Company; rate base, plant in service, construction work in progress, working capital, capital expenditures; and other relevant accounting matters;

WHEREAS, ORS also examined all accounting and pro forma adjustments proposed by the Company, the Company's rate design, the Company's capital structure and cost of capital, and information related to the Company's operations;

WHEREAS, DCA also examined all accounting and pro forma adjustments proposed by the Company, the Company's proposed capital structure and cost of capital, and information related to the Company's operations;

WHEREAS, the Parties have varying positions regarding the issues in this case;

WHEREAS, the Parties have engaged in discussions to determine if a settlement of some or all of the issues would be in their best interests and, in the case of ORS, in the public interest, and in the case of DCA, in the interest of consumers; and,

WHEREAS, following those discussions, the Parties determined that their interests, the DCA determined the consumer's interest,¹ and ORS determined that the public interest, would be best served by agreeing to this partial stipulation regarding issues raised by the Parties and pending in the above-captioned case under the terms and conditions set forth herein;

NOW, THEREFORE, the Parties hereby stipulate and agree to the following terms.

A. STIPULATION OF TESTIMONY AND WAIVER OF CROSS-EXAMINATION

1. The Parties agree to stipulate into the record before the Commission the pre-filed testimony and exhibits (collectively, the "Stipulated Testimony") of the below witnesses without objection, change, amendment or cross-examination with the exception of changes comparable

¹ The DCA's mission is to protect consumers from inequities in the marketplace through advocacy, mediation, enforcement and education. Consumer interest for the purpose of DCA's representation includes South Carolina residents who purchase utility services primarily for a personal, family or household use.

to those that would be presented via an errata sheet or through a witness noting a correction consistent with this Partial Stipulation. With the exception of ORS Witness Daniel P. Hunnell II, the Parties further agree to the testimony and exhibits of the below witnesses being stipulated into the record without them appearing at the merits hearing on the Application. Should the Commission deny the request that the below witnesses be excused from appearing, the Parties reserve the right to engage in redirect examination of the below witnesses as necessary to respond to issues raised by the examination of their witnesses, if any, by non-Parties, parties that are not signatories to this Partial Stipulation, or the Commission. With respect to ORS Witness Hunnell, the Parties also reserve the right to engage in redirect examination or recross, if there is redirect, as necessary to respond to issues raised by the examination of ORS Witness Hunnell, if any, by non-Parties, parties that are not signatories to this Partial Stipulation, or the Commission.

PWR witnesses:

1. Donald H. Burkett
2. Mujeeb Hafeez

DCA witnesses:

1. Lafayette Morgan, Jr.

ORS witnesses:

1. Christina L. Seale
2. Daniel P. Hunnell II

2. The Parties agree that nothing herein will preclude each party from advancing its respective positions in the event that the Commission does not approve the Partial Stipulation.

B. STIPULATION TERMS

3. As a compromise to all of the positions advanced by the Parties with the exception of the authorized return on equity, the Parties agree to the proposal set out immediately below, and this proposal is hereby adopted, accepted, and acknowledged as the final agreement of the Parties.

4. Without prejudice to the position of any Party in future proceedings, the Parties agree to accept and adopt all recommendations, adjustments, and customer protections in the testimony and exhibits of ORS witnesses unless specifically modified by this Partial Stipulation. The recommendations, adjustments, and customer protections in the testimony and exhibits of ORS witnesses accepted and adopted by the Parties include, but are not limited to, the following:

- a. ORS's recommended adjustment related to the Company's allocation of corporate overhead and shared costs to PWR (ORS's proposed adjustment to PWR's Adjustment 2I – Miscellaneous Expenses);
- b. ORS's recommended adjustment to amortize rate case expenses over three (3) years (ORS's proposed adjustment to PWR's Adjustment 2G – Rate Case Expenses);
- c. The correction to ORS Adjustment 3 – Depreciation Expense described in ORS Witness Seale's Surrebuttal Testimony;
- d. Revenue adjustments proposed by ORS based on the actual number of customers and equivalent residential customers by class as of the end of August 2021; and
- e. The following ratepayer protections described in ORS Witness David J. Garrett's Direct Testimony related to South Carolina Utility System, Inc.'s acquisition of Ni South Carolina, LLC (now Ni South Carolina, Inc.), the parent company of PWR, from Ni Pacolet Milliken Utilities, LLC (the "Acquisition"):
 - i. PWR will not seek recovery of any goodwill associated with the Acquisition in any future rate proceedings;
 - ii. PWR will not seek to recover any acquisition or transaction costs associated with the Acquisition in any future rate proceedings;

- iii. PWR will not in any way be the guarantor of any debt for SouthWest Water Company ("SWWC") or any SWWC affiliate or subsidiary entities unless the debt is incurred for purposes specific to the PWR system and operations;
 - iv. Any debt incurred by PWR is and will only be used for purposes specific to the PWR system; and
 - v. PWR will not lend cash or any other capital directly to SWWC or any SWWC affiliate or subsidiary entities except for routine and prudent cash management practices.
5. The Parties agree the amount of rate case expenses to be amortized over three (3) years is \$160,000.
6. The Parties agree to amend Adjustment 2L to allow PWR recovery of the additional \$14,336 in chemicals expense requested in PWR Witness Burkett's Rebuttal Testimony.
7. The Parties agree to a capital structure for the Company that includes 45% debt and 55% equity.
8. The Parties agree to a cost of debt for the Company of 3.79%.
9. The Parties agree to various fallout adjustments to reflect the terms above and the return on equity granted by the Commission.
10. The Company agrees to amend its Rate Schedule to remove Section 13 - Limitation of Liability.
11. The Company agrees to amend the last paragraph of Section 1 – Monthly Charge of its Rate Schedule as follows:

The Utility may, at its discretion, for the convenience of the owner, bill a tenant in a multi-unit building consisting of four or more residential units which is served by a master sewer meter or a single sewer connection. However, in such cases all arrearages must be satisfied before service will be provided to a new tenant. ~~or~~

~~before interrupted service will be restored. Failure of an owner to pay for services rendered to a tenant in these circumstances may result in service interruptions.~~

12. The Parties agree to PWR's request to amend Section 12 of its Rate Schedule to increase the maximum amount of its tampering charge to \$500.00.

13. PWR shall not file for a general rate case before eighteen (18) months from the date the final order is issued in this proceeding, such that new rates will not be effective prior to twenty-four (24) months from the date the final order is issued in this proceeding.

C. REMAINING STIPULATION TERMS AND CONDITIONS

14. The Parties agree that this Partial Stipulation is reasonable, is in the public interest, and is in accordance with law and regulatory policy. This Partial Stipulation in no way constitutes a waiver or acceptance of the position of any Stipulating Party in any future proceeding. This Partial Stipulation does not establish any precedent with respect to the issues resolved herein and in no way precludes any Party herein from advocating an alternative position in any future proceeding.

15. ORS is charged with the duty to represent the public interest of South Carolina pursuant to S.C. Code § 58-4-10(B), which reads in part:

... 'public interest' means the concerns of the using and consuming public with respect to public utility services, regardless of the class of customer and preservation of continued investment in and maintenance of utility facilities so as to provide reliable and high quality utility services.

ORS believes this Partial Stipulation reached among the Parties is in the public interest as defined above.

16. The Parties agree that this Partial Stipulation must be read and construed as a whole and to cooperate in good faith with one another in recommending to the Commission that this Partial Stipulation be accepted and approved by the Commission in its entirety as a fair, reasonable

and full resolution of the issues described herein. The Parties agree to use reasonable efforts before any reviewing court in the event of appeal to defend and support any Commission order issued approving this Partial Stipulation and the terms and conditions contained herein.

17. The Parties ask the Commission to approve this Partial Stipulation in its entirety without exception, modification, or additional provisions.

18. The Parties on behalf of themselves and their agents (including but not limited to their attorneys, hired consultants, and any independent contractors) agree that they have entered into this Partial Stipulation freely and voluntarily and that none of them have been pressured or unduly encouraged to enter into this Partial Stipulation.

19. The Parties agree that signing this Partial Stipulation (a) will not constrain, inhibit, impair, or prejudice their arguments or positions held in future or collateral proceedings; (b) will not constitute a precedent or evidence of acceptable practice in future proceedings; and (c) will not limit the relief, rates, recovery, or rates of return that any Party may seek or advocate for in any future proceeding. If the Commission declines to approve this Partial Stipulation in its entirety and without modification, then any Party may withdraw from the Partial Stipulation without penalty or further obligation.

20. This Partial Stipulation shall be interpreted according to South Carolina law.

21. This Partial Stipulation contains the final and complete agreement of the Parties. There are no other terms or conditions to which the Parties have agreed.

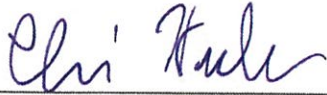
22. The Parties represent that the terms of this Partial Stipulation are based upon full and accurate information known as of the date this Partial Stipulation is executed. If, after execution, but prior to a Commission decision on the merits of this proceeding, a Party is made aware of information that conflicts, nullifies, or is otherwise materially different than that

information upon which this Partial Stipulation is based, that Party may withdraw from the Partial Stipulation with written notice to every other Party.

23. This Partial Stipulation shall bind and inure to the benefit of each of the signatories hereto and their representatives, predecessors, successors, assigns, agents, shareholders, officers, directors (in their individual and representative capacities), subsidiaries, affiliates, parent corporations, if any, joint ventures, heirs, executors, administrators, trustees, and attorneys.

24. The above terms and conditions fully represent the agreement of the Parties hereto. Therefore, each Party acknowledges its consent and agreement to this Partial Stipulation, by affixing its signature or by authorizing its counsel to affix his or her signature to this document where indicated below. Counsel's signature represents his or her representation that his or her client has authorized the execution of the Partial Stipulation. Facsimile signatures and e-mail signatures shall be as effective as original signatures to bind any Party. This document may be signed in counterparts, with the various signature pages combined with the body of the document constituting an original and provable copy of this Partial Stipulation.

Representing the South Carolina Office of Regulatory Staff



Christopher M. Huber, Esquire

Nicole M. Hair, Esquire

South Carolina Office of Regulatory Staff

1401 Main Street, Suite 900

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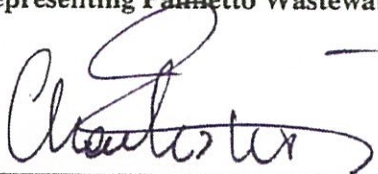
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Representing Palmetto Wastewater Reclamation, Inc.

A handwritten signature in dark ink, appearing to read "Scott Elliott", is written over a horizontal line.

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Palmetto Wastewater Reclamation, Inc.
Docket No. 2021-153-S
Operating Experience, Rate Base and Rate of Return
For the Test Year Ended December 31, 2020
ROE 8.90%

<u>Description</u>	(1) <u>Per Application</u> \$	(2) <u>Accounting & Pro Forma Adjustments Under Stipulation</u> \$	(3) <u>After Stipulation Accounting & Pro Forma Adjustments</u> \$	(4) <u>Proposed Adjustment</u> \$	(5) <u>After Proposed Adjustment</u> \$
<u>Utility Operating Revenues:</u>					
Operating Revenues	3,549,800	143,755 (1)	3,693,555	213,500 (20)	3,907,055
<u>Total Utility Operating Revenues</u>	<u>3,549,800</u>	<u>143,755</u>	<u>3,693,555</u>	<u>213,500</u>	<u>3,907,055</u>
<u>Utility Operating Expenses:</u>					
Operating Expenses	933,603	720,705 (2)	1,654,308	2,135 (21)	1,656,443
Depreciation Expense	602,136	97,649 (3)	699,785	0	699,785
Amortization Expense - Other	(11,168)	(1,511) (4)	(12,679)	0	(12,679)
Utility Regulatory Assessment Fees	21,079	5,101 (5)	26,180	1,513 (22)	27,693
Property Taxes	546,417	67,887 (6)	614,304	0	614,304
Other Taxes and Licenses	0	431 (7)	431	641 (23)	1,072
Federal Income Taxes, Utility Operating Income	112,336	(9,613) (8)	102,723	41,737 (24)	144,460
State Income Taxes, Utility Operating Income	30,538	(4,793) (9)	25,745	10,461 (25)	36,206
Deferred Federal Income Taxes	2,181	(2,181) (10)	0	0	0
Deferred State Income Taxes	2,181	(2,181) (11)	0	0	0
<u>Total Utility Operating Expenses</u>	<u>2,239,303</u>	<u>871,494</u>	<u>3,110,797</u>	<u>56,487</u>	<u>3,167,284</u>
<u>Net Utility Operating Income (Loss)</u>	<u>1,310,497</u>	<u>(727,739)</u>	<u>582,758</u>	<u>157,013</u>	<u>739,771</u>
Add: Interest and Dividend Income	3,706	(3,706) (12)	0	0	0
Add: Allowance for Funds Used During Construction	18,650	(18,650) (13)	0	0	0
Add: Amortization of Excess Deferred Income Taxes	0	0	0	19,880 (26)	19,880
<u>Net Income (Loss) for Return</u>	<u>1,332,853</u>	<u>(750,095)</u>	<u>582,758</u>	<u>176,893</u>	<u>759,651</u>
<u>Original Cost Rate Base:</u>					
Plant in Service	16,498,687	733,168 (14)	17,231,855	0	17,231,855
Accumulated Depreciation	(4,986,910)	(127,226) (15)	(5,114,136)	0	(5,114,136)
Contributions in Aid of Construction - Net	(347,654)	(3,338) (16)	(350,992)	0	(350,992)
Net Plant	11,164,123	602,604	11,766,727	0	11,766,727
Accumulated Deferred Income Taxes	(4,362)	(25,908) (17)	(30,270)	0	(30,270)
Excess Deferred Income Taxes	(438,319)	0	(438,319)	0	(438,319)
Materials and Supplies	0	0	0	0	0
Prepayments	11,014	0	11,014	0	11,014
Cash Working Capital	116,700	85,472 (18)	202,172	0 (27)	202,172
<u>Total Rate Base</u>	<u>10,849,156</u>	<u>662,168</u>	<u>11,511,324</u>	<u>0</u>	<u>11,511,324</u>
<u>Return on Rate Base</u>	<u>12.29%</u>		<u>5.06%</u>		<u>6.60%</u>
<u>Operating Margin</u>	<u>26.59%</u>		<u>10.46%</u>		<u>14.42%</u>
<u>Interest Expense</u>	<u>389,072</u>	<u>(192,746) (19)</u>	<u>196,326</u>	<u>0</u>	<u>196,326</u>